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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,608	12/31/2003	David C. Hastings	066243-0267 (146044)	8938

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EXAMINER

MONIKANG, GEORGE C

ART UNIT	PAPER NUMBER
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2614

MAIL DATE	DELIVERY MODE
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03/16/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/750,608	Applicant(s) HASTINGS ET AL.	
	Examiner GEORGE C. MONIKANG	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendments filed 01/08/2010 have been fully considered but they are not persuasive.

With respect to applicant's amendment that reads 'a notification transmitter. WLAN transceiver, and a cellular network transceiver, wherein each of the notification transmitter, the WLAN transceiver, and the cellular network transceiver are protocol dedicated devices, and further wherein each receives the alert from the notification server and simultaneously transfers the notification message wirelessly to a portable electronic device', the examiner maintains that the Welch reference still applies. In one of the wireless coupling embodiments of the Welch reference, wireless coupling is achieved by using one or MORE cellular communication protocols (Welch, para 0017). This statement implies that one cellular communication protocol could be used or more than one cellular communication protocol could be used.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2614

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over StatView RespondNow, 2002, GE, USA, in view of Brown, US Patent 5,997,476, and further in view of Welch, US Patent Pub. 20040097246 A1.

Re Claim 1, StatView RespondNow discloses a medical monitoring health care facility , the system comprising: a patient monitoring devices, the patient monitoring devices configured to send an alert to the medical monitoring system through a hospital network when any of a plurality of patients being monitored may have a condition that requires attention (Instant knowledge for better care: a patient monitoring network that receives alerts from patient sites and transmits to portable devices upon the caregivers), the medical monitoring system configured to generate a notification message when the patient monitoring device sends the alert (Instant knowledge for better care: the patient monitoring network transmits information regarding the patient condition and location), a notification server that converts the alert to an appropriate format and a notification transmitter that receives the alert and wirelessly transfers the notification message to a portable electronic device (Instant knowledge for better care: the patient monitoring system communicates with the StatView server (notification server) in the figure of page

Art Unit: 2614

2, which in turn transmits the information from the patient monitoring system to a caregiver and is displayed by the portable device in a format which the caregiver can understand), a processing circuit wherein the processing circuit receives the notification messages indicating that the patient being monitored may have a condition that requires attention (Instant knowledge for better care: its inherent that the device in fig. 1 has a processing circuit); a wireless transceiver (fig. 2 of page 2); and to facilitate transfer of data by way of the wireless transceiver (Instant knowledge for better care: patient monitoring network receives alerts from patient sites and wirelessly transmits to portable devices upon the caregivers), wherein the portable electronic device is adapted to communicate via a wireless protocol, corresponding to the patient monitoring device (Instant knowledge for better care: patient monitoring network receives alerts from patient sites and wirelessly transmits to portable devices upon the caregivers); but fails to disclose wherein the portable electronic device includes: an audio signal input device (Brown, fig. 15: 118; col. 12, lines 12-14); an audio signal output device (Brown, fig. 15: 72; col. 12, lines 6-11) and the data being a voice data (Brown, col. 11, lines 46-55). However, Brown does. It would have been obvious to modify the portable device of StatView RespondNow to have an audio input/output with the capability to transmit voice data as taught in Brown (Brown, fig. 15: 72; col. 12, lines 6-11; col. 11, lines 46-55) for the purpose of providing personal medical conditions of patients and audibly communicate queries. The combined teachings of StatView RespondNow, 2002 and Brown et al fail to disclose a system that incorporates a multiple transmission paths including a WLAN transceiver and a cellular network transceiver are protocol dedicated

Art Unit: 2614

devices. However, Welch discloses the ability to transmit wireless signals via multiple transmission paths that include a Bluetooth protocol, cellular communications protocol and a WLAN protocol either simultaneously or by choosing one path (Welch, para 0020), specifically one of the embodiments states that the wireless coupling is provided using one or MORE cellular communication protocols (Welch, para 0017). Hence, it would have been obvious to modify the StatView RespondNow, 2002 and Brown et al references to include the ability to transmit data through multiple wireless paths at the same time or by choosing a single path as taught in Welch (Welch, para 0020) for the purpose of enhancing the transmission capabilities of the system.

The combined teachings of StatView RespondNow, 2002 and Brown fail to explicitly disclose a plurality of patient monitoring devices. Official notice is taken that both the concepts and advantages of using a plurality of patient monitoring devices are well known in the art. Thus it would have been obvious to use a plurality of patient monitoring devices so the caregivers can monitor the condition of many patients thus making the caregiver more efficient.

Claim 2 has been analyzed and rejected according to claim 1.

Re Claim 3, the combined teachings of StatView RespondNow, 2002, Brown and Welch disclose the portable electronic device of claim 1, wherein the wireless transceiver uses a cellular data protocol (Brown, col. 4, lines 55-60).

Re Claim 4, the combined teachings of StatView RespondNow, 2002, Brown and Welch disclose the portable electronic device of claim 1, wherein the device is configured such that if a voice communication link is established with a recipient while a

Art Unit: 2614

notification message is being displayed, data associated with the notification message may be forwarded to the recipient (*Brown, col. 11, lines 46-55*).

Re Claim 5, the combined teachings of StatView RespondNow, 2002, Brown and Welch disclose the portable electronic device of claim 4, wherein the device is configured such that if a voice communication link is established with a recipient while a notification message is received, data associated with the notification message is automatically forwarded to the recipient (*Brown, col. 11, lines 46-55*).

Re Claim 6, the combined teachings of StatView RespondNow, 2002, Brown and Welch disclose the portable electronic device of claim 1, wherein the transceiver is capable of transferring data to an access point connected to a health care facility network (*StatView RespondNow, 2002, fig. 2*).

Re Claim 7, the combined teachings of StatView RespondNow, 2002, Brown and Welch disclose the portable electronic device of claim 1, wherein the transceiver is configured such that a user may connect directly with a second portable electronic device (*Brown, fig. 1: 24 & 32*).

Claims 8 & 10 have been analyzed and rejected according to claim 1.

Claim 9 has been analyzed and rejected according to claims 3 & 8.

Claim 11 has been analyzed and rejected according to claim 1.

Re Claim 12, the combined teachings of StatView RespondNow, 2002, Brown and Welch disclose the system of claim 11, wherein the second processing circuit is configured to facilitate transfer of the voice data to a recipient using a telephone line (*Brown, col. 4, lines 55-60*).

Re Claim 13, which further recites, "Wherein the processing circuit is configured to use a private branch exchange to facilitate transfer of the voice data to a recipient using the telephone line." The combined teachings of StatView RespondNow, 2002, Brown and Welch do not explicitly disclose a private branch exchange as claimed. Official notice is taken that both the concept and advantages of providing a private branch exchange is well known in the art. It would have been obvious to use a private branch exchange since it is commonly used as a communication means to serve a particular office or organization.

Re Claim 14, the combined teachings of StatView RespondNow, 2002, Brown and Welch disclose the system of claim 11, wherein the second processing circuit is coupled to the portable electronic device using a network of the health care facility (*Brown, fig. 1: 24 & 32*).

Re Claim 15, the combined teachings of StatView RespondNow, 2002, Brown and Welch disclose the system of claim 11, wherein the second processing circuit is configured to receive a user input signal input by the audio signal input device and initiate a call to a particular recipient based on the audible user input signal (*Brown, fig. 15: 118; col. 12, lines 12-14; Brown, col. 4, lines 55-60*).

Claim 16 has been analyzed according to claims 3 & 11.

Re Claim 17, the combined teachings StatView RespondNow, 2002, Brown and Welch disclose the system of claim 11, further comprising a second portable electronic device (*StatView RespondNow, 2002, RespondNow improves care quality: ability to let another caregiver respond means there are multiple caregivers using RespondNow*),

Art Unit: 2614

comprising a second audio signal input device (StatView RespondNow, 2002, RespondNow improves care quality: ability to let another caregiver respond means there are multiple caregivers using RespondNow); a second signal output device (StatView RespondNow, 2002, RespondNow improves care quality: ability to let another caregiver respond means there are multiple caregivers using RespondNow); a second wireless communicator (StatView RespondNow, 2002, RespondNow improves care quality: ability to let another caregiver respond means there are multiple caregivers using RespondNow); and a third processing circuit configured (StatView RespondNow, 2002, RespondNow, Instant knowledge for better care: its inherent that the device in fig. 1 has a processing circuit) to receive the notification messages indicating that the patient being monitored may have a condition that requires attention and to facilitate transfer of voice data to the second audio signal output and from the second audio signal input wirelessly (StatView RespondNow, 2002, RespondNow improves care quality: ability to let another caregiver respond means there are multiple caregivers using RespondNow); wherein the portable electronic device is configured to transfer voice data from the first electronic device directly to the second electronic device (Brown, col. 4, lines 55-60).

Re Claim 18, the combined teachings of StatView RespondNow, 2002, Brown and Welch disclose the system of claim 11, wherein one of the first processing circuit and the second processing circuit is configured to initiate a call to a particular recipient based on a notification message received by the portable electronic device (Brown, fig. 15: 118; col. 12, lines 12-14; Brown, col. 4, lines 55-60).

Claim 19 has been analyzed and rejected according to claims 4 & 11.

Claim 20 has been analyzed and rejected according to claims 3 & 11.

Re Claim 21, the combined teachings of StatView RespondNow, 2002, Brown and Welch disclose the system of claim 11, wherein a single user input received by one of a user input device of the portable electronic device and a device used by the recipient of the voice data may be used to forward, to the recipient of the voice data, physiologic data that has been received by the portable electronic device (StatView RespondNow, 2002, Instant knowledge for better care).

Re Claim 22, the combined teachings of StatView RespondNow, 2002, Brown and Welch disclose the system of claim 21, wherein the single user input may be used to forward data that is displayed on a display screen of the portable electronic device and data that is related to the data that is displayed on a display screen of the portable electronic device (StatView RespondNow, 2002, Instant knowledge for better care).

Re Claim 23, the combined teachings of StatView RespondNow, 2002, Brown and Welch disclose wherein the system is configured such that the portable electronic device may be used to control a wireless phone (Brown, fig. 1: 26/32) coupled to the portable electronic device and answer incoming calls of the wireless phone (Brown, col. 4, lines 55-59).

Re Claim 24, the combined teachings of StatView RespondNow, 2002, Brown and Welch disclose the system of claim 11, wherein a notification message received by the first processing circuit includes physiological data associated with the patient who

Art Unit: 2614

may have a condition that requires attention (StatView RespondNow, 2002, Instant knowledge for better care).

Claim 25 has been analyzed and rejected according to claims 1 & 21.

Claim 26 has been analyzed and rejected according to claims 1 & 21.

Re Claim 27, the combined teachings of StatView RespondNow, 2002, Brown and Welch disclose the method of claim 26, wherein the physiologic data is ECG waveform data (StatView RespondNow, 2002, RespondNow improves care quality).

Re Claim 28, the combined teachings of StatView RespondNow, 2002, Brown and Welch disclose the method of claim 25, wherein receiving data from a monitoring device comprises receiving data from a central station that has received the data from the monitoring device (StatView RespondNow, 2002, fig. 2).

Claim 29 has been analyzed and rejected according to claims 1 & 21.

Claims 30 & 33 have been analyzed and rejected according to claims 1 & 21.

Claim 31 has been analyzed and rejected according to claims 1, 3 & 21.

Claim 32 has been analyzed and rejected according to claims 1, 3 & 21.

Claim 34 has been analyzed and rejected according to claims 1, 17 & 21.

Claim 35 has been analyzed and rejected according to claims 1, 4, 21 & 25.

Claim 36 has been analyzed and rejected according to claims 1, 21-22.

Claim 37 has been analyzed and rejected according to claims 1, 15 & 21.

Re Claim 38, the combined teachings of StatView RespondNow, 2002, Brown and Welch disclose the method of claim 25, but fail to disclose further comprising transferring voice data using a wired connection to the portable electronic device.

Art Unit: 2614

However official notice is taken that both the concepts and advantages of providing a wired connection are well known in the art. Thus it would have been obvious to use a wired connection for the purpose of establishing a stronger connection.

Claim 39 has been analyzed and rejected according to claims 1 & 21.

Claim 40 has been analyzed and rejected according to claims 1, 3, 14, 17 & 21.

Claims 41 & 42 have been analyzed and rejected according to claims 1, 3, 14, 17 & 21.

Contact

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GEORGE C. MONIKANG whose telephone number is

Art Unit: 2614

(571)270-1190. The examiner can normally be reached on M-F. alt Fri. Off 7:30am-5:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George C Monikang/
Examiner, Art Unit 2614

3/5/2010

/Vivian Chin/
Supervisory Patent Examiner, Art Unit 2614